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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,377	07/28/2001	Michael S. Allison	10018215-1	9960

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EXAMINER

PHAM, KHANH B

ART UNIT PAPER NUMBER

2167

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/917,377

Applicant(s)

ALLISON ET AL.

Examiner

Khanh B. Pham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/2/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. In view of the Appeal Brief filed on March 23, 2005, PROSECUTION IS HEREBY REOPENED. The new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The languages of **claims 1-17** raise a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C 101.

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Claims 18-20 recite "A system for processing events..." However, all components of the system are or could be implemented using software. The claimed system is therefore directed to software per se and therefore rejected as not being tangible.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 1-4, 6-20** are rejected under 35 U.S.C. 102(e) as being anticipated by Brundridge et al. (US 2003/0074607 A1), hereinafter "Brundridge".

As per claim 1, Brundridge teaches a method for processing events from electronic architecture, the architecture of the type having one or more entities generating the events (page 1, [0011]), comprising:

- "extracting the events from the architecture" at page 2, [0025], page 4, [0036] and Fig. 1, element 115;

(Brundridge teaches the parsing program is performed to locate error in an error log)

- "separating the events according to the entities" at page 2, [0025] - [0026];

(Brundridge teaches that the events are separated according to the entities. For example, the error log at [0026] only contains events related to the entity "floppy")

- "transforming the events to one or more text string" at page 1, [0012]-[0013], page 2, [0025], and Fig. 1, elements 125.

(Brundridge teaches the step of transforming error event (i.e., event code) into error string, which is related to particular frequently asked question files presented to a user")

As per claim 2, Brundridge teaches the method of claim 1, further comprising the step of "filtering the events" at Fig. 1, elements 135, 140, 145.

(Brundridge teaches the step of filtering duplicate or redundant events)

As per claim 3, Brundridge teaches the method of claim 1, wherein "the step of extracting the events comprises extracting chassis logs, wherein the step of separating the events comprises separating the chassis logs, and wherein the step of transforming events comprises transforming the chassis logs to text string" at page 2, [0025] and Fig. 1.

(Brundridge teaches the steps of extracting, separating and transforming events from error logs, wherein the logs are generated by "a diagnostic program directed to a particular device", and "the diagnostic can be build into the device".

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Therefore Brundridge's error logs are equated to applicant's chassis log. Further, a well-known name for "chassis log" is Event Logs, which is similar to Brundridge's error logs.)

As per claim 4, Brundridge teaches the method of claim 1, further comprising the step of "coupling a getcc extraction tool to the architecture" at page 2, [0025].

(Brundridge uses a parsing program written in JAVA language to extract event from the architecture)

As per claim 6, Brundridge teaches the method of claim 1, "the architecture being a server, and wherein the step of extracting events from the architecture comprises extracting events from the server" at page 5, [0058] - [0059] and Fig. 4.

As per claim 7, Brundridge teaches the method of claim 1, wherein "the step of transforming comprise converting a binary representation of the events to the text strings" at page 2, [0025].

As per claim 8, Brundridge teaches the method of claim 1, further comprising the step of "analyzing the text strings and producing a human interpretable statement summarizing at least one of the events associated with the text strings" at page 4, [0038] and Fig. 3.

As per claim 9, Brundridge teaches the method of claim 1, wherein "the entities comprises one or more of firmware, software, processors, architecture monitors, power monitors, cabinet monitors, and I/O drivers" at Fig. 5.

As per claim 10, Brundridge teaches the method of claim 1, further comprising the step of “controlling one or more steps of extracting, separating and transforming via one or more command line options” at page 2, [0028].

As per claim 11, Brundridge teaches the method of claim 10, further comprising “controlling one or more steps of extracting, separating, and transforming according to one or more configuration files” at page 4, [0039].

As per claim 12, Brundridge teaches the method of claim 10, wherein “the step of controlling comprises inputting the command line options via a graphic user interface” at page 2, [0027] - [0028].

As per claim 13, Brundridge teaches the method of claim 10, wherein “the step of controlling comprises updating the command line option automatically from the architecture” at page 2, [0027] - [0028].

As per claim 14, Brundridge teaches the method of claim 1, further comprising “specifying one or more cells of the architecture, and extracting the event from the one or more cells” at page 2, [0025].

As per claim 15, Brundridge teaches the method of claim 1, further comprising “specifying one or more processors of the architecture, and extracting the events only from the one or more processors” at page 2, [0025].

As per claim 16, Brundridge teaches a method of claim 1, further comprising the step of “saving a log file representative of the event” at page 2, [0026].

As per claim 17, Brundridge teaches the method of claim 1, further comprising the step of: “transmitting the text string to one or more analyzers associated with one or

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more entities and analyzing the text string at the one or more analyzers" at page 5, [0057].

As per claim 18, Brundridge teaches a system for processing events from electronic architecture, the architecture of the type having one or more entities generating the events (Figs. 4-5) comprising:

- "an extraction tool for extracting the events from the architecture (page 4, [0036] and Fig. 1, element 115; separating the events according to the entities (page 2, [0025]), and transforming the events to one or more text string" at page 1, [0012]-[0013] and Fig. 1, elements 125;
- "an interface for coupling the extraction tool to one or more of the architecture and a log file storing the events from the architecture" at page 2, [0025] - [0026].

As per claim 19, Brundridge teaches the system of claim 18, wherein "the entities comprise one or more of firmware, software, processor, architecture monitors, power monitors, cabinet monitors, and I/O drivers, and wherein the events comprise chassis logs from one or more of the firmware, software, processors, architecture monitors, power monitors, cabinet monitors, and I/O drivers" at page 2, [0025] and Figs. 4-5.

As per claim 20, Brundridge teaches the system of claim 18, further comprising one or more analyzers coupled to the extractor tool, the analyzers processing the text string into one or more human interpretable statements summarizing at least one of the events associated with the text string" at page 4, [0038] and Fig. 3.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. **Claim 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over Brundridge as applied to claims 1-4, 6-20 above, and in view of Leong et al. (US 6,269,398 B1), hereinafter "Leong".

As per claim 5, Brundridge teaches the method of claim 4 discussed above. Brundridge does not explicitly teach: "the step of coupling comprising utilizing telnet". However, telnet is a well-known protocol for remote accessing, which is used to access diagnostic information from a remote system, as exemplary by Leong at Col. 2, lines 28-40. Leong teaches: "the telnet protocol provides a terminal emulation capability allowing

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a network manager to issue command (such as command requesting diagnostic information) from other device in the network". Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Leong and Brundridge's teaching so that the diagnostic information could be retrieved not only from a local machine but also from a remote machine. Utilizing telnet to access diagnostic information as suggest by Leong would allow Brundridge's system to diagnose and provide technical support to remote users.

Double Patenting

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 1, 8 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 11 of copending Application No. 09/918, 425. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 11 of copending application

09/918,425 include all limitations of claim 1 and 8 of the instant application and therefore not patentably distinct from each other, see table below.

Claims 1 and 8 of the Instant applicant	Claim 11 of 09/918,425
<p>1. A method for processing events from electronic architecture, the architecture of the type having one or more entities generating the events, comprising the steps of: extracting the events from the architecture; separating the events according to the entities; and transforming the events to one or more text strings.</p> <p>8. A method of claim 1, further comprising the step of analyzing the text strings and producing a human interpretable statement summarizing at least one of the events associated with the text strings.</p>	<p>1. A method for analyzing text strings associated with events from electronic architecture, the architecture of the type having one or more entities generating the events, comprising the steps of: processing the text strings; and transforming the text strings to human interpretable statements summarizing at least one of the events associated with the text strings.</p> <p>10. A method of claim 1, further comprising the step of acquiring the text strings from an extraction tool coupled to the architecture.</p> <p>11. A method of claim 10, the extraction tool extracting the events from the architecture, separating the events according to the entities, and transforming the events to one or more text strings.</p>

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Response to Arguments

10. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. The prior art made of record, listed on form PTO-892, and not relied upon, if any, is considered pertinent to applicant's disclosure.

If a reference indicated as being mailed on PTO-FORM 892 has not been enclosed in this action, please contact Lisa Craney whose telephone number is **(571) 272-3574** for faster service.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh B. Pham whose telephone number is (571) 272-4116. The examiner can normally be reached on Monday through Friday 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Khanh B. Pham
Examiner
Art Unit 2167

Jun 2, 2005
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